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Reply to Portland Office



U.S. DEPARTMENT OF JUSTICE
United States Attorney's Office
District of Oregon
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May 21, 2019

Paul A. Hood, Attorney at Law
Paul Hood, LLC
PO Box 66876
Portland, OR 97290-6876

Re: *United States v. Joseph Dibee*, Case No. 6:06-cr-60011-AA-1
Discovery—Volumes 4 & 5

Dear Mr. Hood:

Volumes 4 and 5 of discovery are ready for you to pick up. Volume 4 consists of a total of 76 unencrypted discs containing files missing from previous productions as noted in the chart you provided to me. I have prepared a chart that indicates the discs and Bates numbers being provided. There is just one CD in Volume 5, which contains FBI 302s, Bates numbered DIBEE_00001 through 00028. That disc is encrypted. Pursuant to DOJ policy, the password will be given to you separately.

All discovery in this matter is subject to the provisions of the Protective Order issued in this case (ECF No. 143). Please contact me to schedule a time to meet and review the discovery items in more detail.

Sincerely,

BILLY J. WILLIAMS
United States Attorney

/s/ Geoffrey A. Barrow

GEOFFREY A. BARROW
Assistant United States Attorney

lm
Enclosures to be provided: 77 discs, Volume 4 Chart

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January 8, 2020

Paul A. Hood, Attorney at Law
Paul Hood, LLC
PO Box 66876
Portland, OR 97290-6876

Re: *United States v. Joseph Dibee*, Case No. 6:06-cr-60011-AA-1
Discovery—Volume 6

Dear Mr. Hood:

Volume 6 of discovery has been uploaded to USAfx and is Bates labeled as DIBEE_0000029 through DIBEE_0000085. These include materials that I previously provided to you via e-mail. An index of the discovery is included with the materials. Please contact me if you have any issues accessing the information and to confer regarding pretrial discovery as provided in Fed. R. Crim. P. 16.1.

This material is subject to the terms of the Protective Order issued in this case (ECF No. 143).

I recognize the government's discovery obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), its progeny, and Rule 16. I will provide timely disclosure if any such material comes to light. Consistent with *Giglio*, *Ruiz*, and 18 U.S.C. § 3500, I will provide information about government witnesses prior to trial and in compliance with the court's trial management order.

I request reciprocal discovery to the fullest extent provided by Rule 16 of the Federal Rules of Criminal Procedure, including results or reports of any physical or mental examinations, or scientific tests or experiments, and any expert witness summaries. I also request that defendant(s) disclose prior statements of any witnesses defendant(s) intends to call to testify at any hearing or trial. *See* Fed. R. Crim. P. 26.2; *United States v. Nobles*, 422 U.S. 255 (1975). I request that such material be provided on the same basis upon which the government will provide defendant(s) with materials relating to government witnesses.

Paul A. Hood
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January 8, 2020

Additionally, pursuant to Federal Rules of Criminal Procedure 12.1, 12.2, and 12.3, I request that defendant provide the government with the appropriate written notice if defendant plans to use one of the defenses referenced in those rules. Please provide any notice within the time period required by the Rules or allowed by the Court for the filing of any pretrial motions.

I will forward any additional discovery as it becomes available. If you have any questions, please feel free to contact me.

Sincerely,

BILLY J. WILLIAMS
United States Attorney

s/ Geoffrey A. Barrow

GEOFFREY A. BARROW
Assistant United States Attorney

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March 5, 2020

Paul A. Hood, Attorney at Law
Paul Hood, LLC
PO Box 66876
Portland, OR 97290-6876

Re: *United States v. Joseph Dibee*, Case No. 6:06-cr-60011-AA-1
Discovery—Volume 7

Dear Mr. Hood:

Volume 7 of the discovery in this case has been uploaded to USAfx and is Bates labeled as DIBEE_0000086 through DIBEE_0000119. An index of the discovery is included with the materials. The material includes prisoner records from the Multnomah County Sheriff's Office that they have already sent you and records from FCI Sheridan. Please contact me if you have any issues accessing the information and to confer regarding pretrial discovery as provided in Fed. R. Crim. P. 16.1.

This material is subject to the terms of the Protective Order issued in this case (ECF No. 143).

I recognize the government's discovery obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), its progeny, and Rule 16. I will provide timely disclosure if any such material comes to light. Consistent with *Giglio*, *Ruiz*, and 18 U.S.C. § 3500, I will provide information about government witnesses prior to trial and in compliance with the court's trial management order.

I request reciprocal discovery to the fullest extent provided by Rule 16 of the Federal Rules of Criminal Procedure, including results or reports of any physical or mental examinations, or scientific tests or experiments, and any expert witness summaries. I also request that defendant(s) disclose prior statements of any witnesses defendant(s) intends to call to testify at any hearing or trial. *See* Fed. R. Crim. P. 26.2; *United States v. Nobles*, 422 U.S. 255 (1975). I request that such material be provided on the same basis upon which the government will provide defendant(s) with materials relating to government witnesses.

Paul A. Hood
Page 2
March 5, 2020

Additionally, pursuant to Federal Rules of Criminal Procedure 12.1, 12.2, and 12.3, I request that defendant provide the government with the appropriate written notice if defendant plans to use one of the defenses referenced in those rules. Please provide any notice within the time period required by the Rules or allowed by the Court for the filing of any pretrial motions.

I will forward any additional discovery as it becomes available. If you have any questions, please feel free to contact me.

Sincerely,

BILLY J. WILLIAMS
United States Attorney

s/ Geoffrey A. Barrow

GEOFFREY A. BARROW
Assistant United States Attorney

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July 27, 2020

Via E-mail

Mr. Matthew A. Schindler
501 Fourth Street #324
Lake Oswego, Oregon, 97034

Re: *United States v. Joseph Dibee*, Case No. 06-cr-60011-AA

Dear Mr. Schindler:

I am writing to follow up on your discovery letters of June 24, 2020, July 1, 2020, July 17, 2020, and our telephone and e-mail discussions.

As we have discussed, I do not believe that "starting over" or reprocessing discovery in this case would create a better product. As you know, we currently produce discovery that leverages information from our partner agencies' computer systems. Due to the age of this case, reports were generated on an old FBI system that is not capable of producing reports in a modern format. While it may be possible to re-generate the text from reports, the text would not appear as an FBI report, and it would be missing critical information including the date the report was written and the author. Because the existing discovery includes text-searchable .pdf copies of reports, including this critical information, I believe the existing product is more useable than any re-production. If you would like to further discuss this issue, let me know.

We have agreed to prioritize (1) indices; (2) ESI related to the counts involving Dibee; (3) physical evidence for those same counts; and (4) redactions on witness statements for Dibee involved counts.

I. June 24, 2020 Letter

A. Discovery Indices

We have also discussed how we may be able to provide better indices. With this letter, I have included indices for the following arson locations:

1. Jefferson Poplar
2. Litchfield
3. Oakridge
4. Romania

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5. U.S. Forest Industries
6. University of Washington
7. APHIS ADC
8. BLM Burns
9. Boise Cascade
10. Cavel West
11. EPD Substation
12. BLM Rock Springs
13. Superior

These indices were prepared by hand, but appear to be accurate. They are not always comprehensive, i.e., sometimes they do not cover the entire production. We are working to track down any existing indices for the remaining locations. Let me know if you find these useful and we can discuss the remaining locations.

B. Video Files

1. Vol 02.4 Cavel West\VIDEO_TS
 - a. **Complaint:** VTS_01.vob, VTS_02.vob and VTS_03.vob are not playable.
 - b. **Response:** The file names in your letter do not exist. There are three video files in the production:
 - VTS_01_01.VOB
 - VTS_01_02.VOB
 - VTS_01_03.VOB

All appear to be surveillance footage obtained from a Quick Stop in Redmond, Oregon, for the period 7/20/1997 to 7/21/1997. Quality is poor as you would expect from a surveillance camera used in the late 1990's. The FBI has a VHS copy of the recording. If you wish to view that copy, we can arrange a time to watch it at the FBI.

2. Vol 03
 - a. **Complaint:** Folders Vol 03\1B, VOL 03\1C and Vol 03\1D are empty.
 - b. **Response:** For each case, the FBI maintains a 1A, 1B, 1C, and 1D file. I believe that the folders you have identified are essentially placeholders. For the Cavel West file:
 - 1B – Contains physical items stored as evidence in Eugene
 - 1C – Contains videos produced in discovery at Cavel West 0004 and 0005. *See* Cavel West 00276
 - 1D – There are no 1D items for this file.

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3. Vol 04\APHIS_ADC\3107\001\MISC
 - a. **Complaint:** MISC folder is empty.
 - b. **Response:** Photos are stored in the DCIM folder which is automatically created by digital cameras. The MISC folder is also automatically created by the camera. It typically contains Digital Print Order Format (DPOF) settings used when you print directly from the camera to a printer. There is no such information in this case.
4. Vol 04\Oakridge\1590\VIDEO_TS
 - a. **Complaint:** Video files not playable – appears corrupted.
 - b. **Response:** The index included with this production describes this as a DVD video of a protest on 11/1/1996. The file plays on my computer, though the quality is poor. If you would like to view the original copy, we will make it available for viewing at the FBI.
5. Vol 04\Superior\VIDEO_TS
 - a. **Complaint:** Video file VTS_01_2.vob not playable.
 - b. **Response:** The file plays on my computer, but does not contain any images (it is simply a blue screen). However, it appears that the only video associated with this case is the crime scene video which plays at VTS_01_1.vob. I suspect the VTS_01_2.vob file is a copying error. The FBI has the original copy in evidence and we will make it available for viewing at the FBI if you would like to see it.
 - c. **Additional Superior Materials:** We have identified photos of the fire scene (1A43), aerial photos (1A68), and a Glendale FDP report that we have included with this production.
6. APHIS ADC
 - a. **Complaint:** None of these folders contain functional files.
 - b. **Response:** All of the data in this section has been produced in its original format. Specifically:
 - 3106 – Contains pen register data for [REDACTED] and [REDACTED]. The data is visible on my computer and I am not aware of any way to make it more user-friendly.
 - 3108-3113 – These disks contain digital photos related to the UW Horticultural Center. They are in a .PCD format, which was a proprietary format used by Kodak. These files can be converted

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using software available for free on the internet. We are exploring ways to convert files for you and will provide them in a different format if we can.

- 3114 – Peach Arch Video with player. If you are able to make the player work, let me know. When it was produced in 2007 in the Briana Waters case, the government noted, “We do not believe that the film has any evidentiary value, and do not even have any software that allows us to view it. We are providing it simply because it is part of the evidence in this investigation.”

C. Volume 04 – Detroit

1. Detroit 01- TIFF Files.

- a. **Complaint:** Expect load files for a discovery review platform. No text searchable .pdf's were produced.
- b. **Response:** These reports were produced by the ATF, and I believe they generated the .tiff files to enable viewing using Irfanview software. This software is available free of charge on the internet, but I have not tried to use it with these images. I am not aware of any discovery review database associated with these reports (other than the iPro database we have already produced). Some of the reports are duplicated in text searchable reports you already have. *See* Detroit 000073, Detroit 000443-4452.

2. Detroit 02- JPEG Files

- a. **Complaint:** No metadata associated with .jpg images.
- b. **Response:** These images are scans of physical photos. There is no relevant metadata.

D. PII Redactions to APHIS/ADC Arson Interviews

1. **Complaint:** PII is redacted from interviews conducted in association with the APHIS/ADC arson.
2. **Response:** As we discussed, we can provide the PII from the original reports. We agreed that this was not a priority at this point. When you would like to discuss this issue further, let me know.

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Mr. Matthew A. Schindler
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E. Search Warrant at Mr. Dibee's residence

1. **Complaint:** Cannot locate items seized from residence. Cannot find photos taken during the search.
2. **Response:** All evidence seized from residence is available for viewing at the FBI's office in Seattle, Washington. We will produce photographs from the search of Mr. Dibee's residence in the next production.

F. Search Warrant at Mr. Dibee's office.

1. **Complaint:** Cannot locate images of electronic devices seized from office. Request forensic reports.
2. **Response:** Forensic images of the devices seized from Mr. Dibee's office are available at the RCFL in Portland, Oregon. We will produce forensic reports and, with this production, I have included a list of the items available at the RCFL to help you identify which items you are most interested in. We should be able to provide forensic copies of the devices for you.

G. Grand Jury Information

1. **Complaint:** Cannot locate grand jury records.
2. **Response:** As we discussed, you subsequently located the previously produced records. We have identified additional records produced in electronic format and will provide them in the next production.

H. Physical Evidence

1. **Complaint:** Request access to physical evidence.
2. **Response:** The government will make all physical evidence available for review by the defense and defense expert. The requested evidence is in the following locations:
 - a. [REDACTED] – Olympia, Washington
 - b. [REDACTED] – Olympia, Washington
 - c. BLM Wild Horse Corral – No physical evidence seized from fire
 - d. Wild Burro Corral – Sacramento, California
 - e. Cavel West – Eugene, Oregon

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Mr. Matthew A. Schindler
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II. July 1, 2020 Letter

1. Fire Dispatch 911 Call
 - a. **Complaint:** Audio file of call is missing.
 - b. **Response:** This file was produced as Litchfield 00138 on May 21, 2019.
2. Black and White Photos of Litchfield fingerprints
 - a. **Complaint:** Copies of photos are illegible.
 - b. **Response:** We can make these photos available for viewing along with the remaining evidence.
3. Photographs stored in 1A files
 - a. **Request:** Digital photographs of the vessel Mantra Ray, Mr. Dibee's residence, video footage of Mr. Dibee's residence, photographs of Briana Waters and Justin Solondz, photographs of the residence at [REDACTED] Olympia, Washington and [REDACTED], Olympia, Washington, and photographs of the residence at [REDACTED] Olympia, Washington, [REDACTED], Olympia, Washington, and [REDACTED] Olympia, Washington.
 - b. **Response:** The items are all stored in 1A files. We will locate the items and produce copies in a later production.
4. REI Customer Purchase History
 - a. **Complaint:** Records are missing.
 - b. **Response:** Records were previously produced at Bates 003015-3032.
5. **Request:** One I-mation 5 GB Tape – Labeled May 01 – Nov 02 and one HP C449 Data Cartridge produced by Ralph's Thriftway.

Response: I believe these items are at the RCFL. We can make a copy available, however, this evidence relates to the APHIS ADC arson. Per our discussion, I understand this information is not a priority.
6. **Request:** Reports and data production associated with SA Ted Halla's meeting with Dan Martin of One Point Systems regarding the production of data from two Colorado Data Cartridges (1B41, Items 1 and 2) supplied by Ralph's Thriftway in Olympia Washington.

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Response: We will produce this information, however, this evidence relates to the APHIS ADC arson. Per our discussion, I understand this information is not a priority.

7. **Request:** Any data production associated with Dan Martin's utilization of an HP Vectra Server, serial number US83611906 to review the data on the data cartridges (1B41, Items 1 and 2) supplied by Ralph's Thriftway in Olympia Washington.

Response: Again, this evidence relates to the APHIS ADC arson. We will produce it, however, per our discussion, I understand this information is not a priority.

8. **Request:** Western Digital HDD, model WD2000JB-00FUAO, s/n WMAEP133835 containing an image copy of item 1B36, a hard drive used by Joseph Dibee. Bates 009026.

Response: This is a copy of an encrypted hard drive. We will produce a copy in the next production.

9. **Request:** DVD created from evidence item 1B4 [2661-SE-81793], an 8mm video cassette tape obtained on March 15, 1999, from Sergeant Charles Tilby, of the Eugene Police Department. (The DVD contains law enforcement surveillance footage of various individuals involved in the actions surrounding the 1999 Seattle Fur Exchange protests). Bates 014950.

Response: We will produce a copy of this DVD in the next production. However, these materials do not relate to any arsons linked to Mr. Dibee.

10. **Request:** Images of Briana Waters and Justin Solondz created from the DVD referenced at above. Bates 014950.

Response: Color copies of these images are at Bates 14951-14954.

11. **Request:** The following items released to AUSA Andrew Friedman on May 29, 2007, to be turned over as part of discovery. Bates 015586.
- 1B50 [E03912890] One CD-R labeled "DESE7" containing image file of 1B11 - A Handspring PDA.
 - 1B51 [E03912891] Two Iomega PC100 ZIP disks labeled "DESE6-1" and DESE6-2, containing mirror images of 1B7, two ZIP disks.

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- 1B52 [E03912892] One IBM 16GB Hard Drive, SN: WJ0WK123093, labeled "DESE5", containing mirror image of 1B11, QSE3-1, from 15 GB image on 1B13.

Response: We will produce these images in the next production.

12. **Request:** Electronic copy of charts and maps for seven (7) GPS waypoints stored in a Garmin 12 GPS device (1B46, Item 12) provided by JTTF Detective Rick Hall on June 6, 2007, and saved onto a CD. Bates 015525.

Response: Paper copies of this information are at Bates 015526-15585. We will produce the electronic version of the data in a future production.

13. **Request:** Two (2) Northwest Regional Computer Forensics Laboratory (RCFL) Case Reports for electronic media seized from the residence of William C. Rodgers in December 2005. Bates 022029.

Response: We will produce these reports along with the other forensic reports in the next production.

14. **Request:** Copy of Northwest Regional Computer Forensics Laboratory (RCFL) Optical disc labeled NWRCFL-07-0064, NW8912 dated May 24, 2007 with the description, "Copy: FTK Case Report re Rodgers 1B128 (NW3077) and 1B129 (NW30791). Bates 022030.

Response: The paper copy of this report is at Bates 022031-022059. We will make the electronic version of this report available with the other forensic reports.

15. **Request:** The following DVD produced by King-TV News, [REDACTED] Seattle, Washington 98109 on August 14, 2007. Bates 022332.

Response: This DVD will be produced in the next production.

16. **Request:** The file "memopad[9921].bak.dat" which was previously copied from a Seagate hard drive (266I-SE-85962, evidence item 1B36, also known as NW4000 and NW4052). The hard drive was seized as evidence during the execution of a Federal search warrant on Joseph Dibee's Microsoft Office on March 2, 2006. Bates 22343.

Response: A copy of this file was produced at Bates 009085-009122. We can produce an electronic copy with the other forensic images.

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17. **Request:** Twenty-seven (27) Mini Discs that were found during the search of Justin Solondz's cabin and subsequently copied onto a DV. Bates 022149.

Response: We will provide a copy of these materials in the next production. I do not believe they have any relevance to Mr. Dibee.

18. **Request:** Seven (7) cassette tapes which were found with the Mini Discs during the search of Justin Solondz's cabin. These cassette tapes were also copied onto a DVD. Bates 22153.

Response: These recordings are described as music. We can produce copies of these recordings in the next production, but they do not appear to have any evidentiary value.

19. **Request:** Records produced by Microsoft Corporation pursuant to Grand Jury Records Subpoena #37283. Bates 012295.

Response: These records were produced at Bates 12299-12595.

20. **Request:** State of California Department of Forestry Interagency Report of Incident and Dispatch Action dated October 15, 2001, Incident # NOD 3070, re: the BLM Horse Corrals provided to SA Thomas J. Anzelmo on October 16, 2001, by the State of California Department of Forestry. Bates 011480.

Response: This report was produced at Litchfield 000017 on February 21, 2019.

21. **Request:** Investigation done at the CART Seattle lab 1/13/2006 – 4/11/2006. Reference 266I-SE-85962-435, Bates 000485.

Response: Let's discuss this request further. The report you reference indicates that the items were sent to the RCFL for review. We will work to make the forensic reports and images available for your review. To the extent those materials do not answer your requests, we can discuss the nature of the requests.

22. **Request:** Electronic phone records including:
- a. Qwest Corporation records produced on May 22, 2006 as 178002.txt pursuant to Grand Jury Subpoena No. 41848. Bates 007601.
 - b. Subscriber and toll records, for the period of April 1, 2001 through May 31, 2001, for [REDACTED] produced on CD by Cingular on July 18, 2006. Bates 008354.

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- c. Subscriber and toll records for [REDACTED] for the period June 20, 2002 – December 31, 2002 produced on CD and placed into a 1-A envelope by SA Ted Halla on June 6, 2006. Bates 006485.
- d. One (1) compact diskette containing toll records 01/01/2001 - 05/31/2001) for the following telephone numbers: [REDACTED], [REDACTED] produced by SBC and placed into a 1-A envelope by SA Ted Halla on June 15, 2006.
- e. Subscriber and tolls, for the period of May 12, 2002 through December 31, 2002 for [REDACTED] produced on CD by Verizon New York on July 24, 2006. Bates 008491.
- f. Toll records for Rebecca T. Kauffman as provided on CD by SBC Pacific Bell Telephone Company on September 18, 2006. Bates 008875.
- g. Subscriber and billing information for [REDACTED] & [REDACTED] for the period April 1, 2000 through December 31, 2000 provided on CD by Verizon New Jersey on November 24, 2006. Bates 009369.

Response: We will produce all available electronic toll records in the next production.

III. July 17, 2020 Letter

- 1. **Request:** 2004-11-17 1A63 envelope Aerial photos of APHIS pre-fire. APHIS-ADC-02791.

Response: Copies of these photos are at APHIS-ADC-02792-02793. I believe they are physical prints. *See* APHIS-ADC-00388. If you would like to view the originals, we will make them available for viewing at the FBI.

- 2. **Request:** 2004-12-15 1A64 envelope Photos of APHIS pre-arson. APHIS-ADC-02794.

Response: Copies of these photos are at APHIS-ADC-02795-02799. They are physical prints. If you would like to view the originals, we will make them available for viewing at the FBI.

- 3. **Request:** 2005-08-15 1A71 envelope Sprint CD [REDACTED] APHIS-ADC-02829.

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Response: The referenced Bates page does not describe these materials as a “CD.” These records were previously produced at APHIS-ADC-02830. Based on the index description you now have, I believe the documents were produced in paper form.

4. **Request:** 2005-08-26 1A72 envelope Yahoo CD [REDACTED]
APHIS-ADC-02853.

Response: I believe the contents of this CD are at APHIS-ADC-02855-02856C. Additional information about the account is at Bates 02113-02118. We will produce the electronic version in the next production.

5. **Request:** 2005-12-13 1A77 envelope Sketch Diagram & Evidence Log – [REDACTED]
[REDACTED] APHIS-ADC-02862.

- Item #6 “Compact disc marked email”
- Item #9 “Personal computer tower”
- Item #10 “Personal computer tower”
- Item #12 “Computer compact disks”
- Item #14 “CDs, disks”
- Item #20 “Computer disks & misc. documents”
- Item #21 “Hard drives & misc. documents”
- Item #43 “Zip disk 100” [This will be a legacy device]
- Item #45 “3 VHS tapes”
- Item #47 “Floppy disks & misc. documents”

Response: The sketch diagram is at APHIS-ADC-02862-02864. The evidence log is at APHIS-ADC-02865-02869. The physical items are stored in evidence at the FBI.

6. **Request:** 2006-01-06 1A100 envelope Sprint CD [REDACTED] Joseph Dibee.
APHIS-ADC-02923.

Response: These records are at Bates 01167-001251. We will produce the electronic version in the next production.

7. **Request:** Any video taken by US Government personnel before and during Mr. Dibee’s “rendition” from Cuba.

Response: I am not aware of any materials that respond to this request.

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8. **Request:** All communications between the United States and Cuba regarding Mr. Dibee's arrest in Cuba, his detention there, and his return to the United States.

Response: Let's discuss this request further. At this point, I do not see why any such communications would be discoverable.

9. **Request:** Disclosure of monies paid by the United States to Cuba related to Mr. Dibee.

Response: I am not aware of any money paid to Cuba for Mr. Dibee's capture.

10. **Request:** All information about warrantless interception of electronic communications involving Mr. Dibee or his alleged co-conspirators including whether either was used to obtain a warrant from the FISA Court or used in obtaining evidence that the government now possesses and intends to use in its case or which is exculpatory or otherwise discoverable under Rule 16.

Response: I am not aware of any materials that respond to this request.

11. **Request:** As to any information covered by 10, supra., identify the specific information used, its nature and extent, and what specific constitutional or statutory authority the government relied on in obtaining the information without a warrant.

Response: Not applicable.

Sincerely,

BILLY J. WILLIAMS
United States Attorney

/s/ Geoffrey A. Barrow

GEOFFREY A. BARROW
Assistant United States Attorney

cc: FBI Special Agent Timothy Suttles

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310 West Sixth Street
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September 1, 2020

Via E-mail

Mr. Matthew A. Schindler
501 Fourth Street #324
Lake Oswego, Oregon 97034

Re: *United States v. Joseph Dibee*, No. 06-cr-60011-AA

Dear Mr. Schindler:

As I noted early last week, Volume 9 of discovery is available. If you provide a 32 GB thumb drive, we will load the materials on your drive.

Volume 9 includes digital photos, phone records, reports and videos as well as an index. We were able to convert .PCD photos and have included them in Volume 9.

In response to some of your specific requests:

1. Photos from search of Siuslaw National Forest

These photos are included in Volume 9 in .pdf format. The originals may be prints, not digital photos. If that is not the case, we will provide digital copies in a future production.

2. Handwritten Notes at Bates 015227 & 015229

While I have not been able to confirm the origin of the notes, I believe they are Agent Torres' notes. You asked about missing pages. I'm not sure what you are referring to. I concur that the notes appear to relate to more than one interview. Agent Torres has retired, but we will reach out to him for clarification.

3. Schedule of missing notes

Agent interview notes are maintained in a physical file at the FBI. We will make the missing notes available for your review when we schedule a time to view physical evidence.

4. October 31, 2006, Jonathan Paul 302

Agent Suttles 302 of the interview is at Bates 011714.

///

Matthew A. Schindler
Page 2
September 1, 2020

5. Eugene Detective Greg Harvey Reports

Detective Harvey did not write reports. The interviews are documented in the reports that you have.

6. Indices

We have not been able to locate any additional indices. The index provided with Volume 9 includes more detailed descriptions of the materials.

7. Plea agreement statements

Jonathan Paul's interview is at Bates 011714. Rebecca Rubin's interview is included in Volume 9 at DIBEE_0003730

8. Miscellaneous

Photos from the search of Mr. Dibee's residence are at APHIS/ADC 3107. I believe there are additional photos that we are working to track down.

Finally, I have attached a spreadsheet that describes computer devices seized from your client. If you let us know which devices are of the most interest, I will give you an idea of how large a hard drive will be needed to give you copies of the devices.

Sincerely,

BILLY J. WILLIAMS
United States Attorney

/s/ Geoffrey A. Barrow

GEOFFREY A. BARROW
Assistant United States Attorney

cc:
FBI Special Agent Timothy Suttles

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September 9, 2020

Mr. Matthew A. Schindler
501 Fourth Street #324
Lake Oswego, Oregon 97034

Re: *United States v. Joseph Dibee*
Case No. 06-cr-60011-AA

Dear Counsel:

Enclosed as discovery in this case is one thumb drive, labeled as follows:

Volume 9 – DIBEE_0000197 – DIBEE_0003858
Volume 9 – APHIS/ADC 3109 – APHIS/ADC 3113
Volume 9 – 022864 – 023385

An index of the discovery is included with the materials. The discovery is encrypted; you will receive a separate email with the password. Please contact me if you have any issues accessing the information.

This material is subject to the terms of the Protective Order issued in this case.

By accepting this discovery, you agree that you will not provide any discovery material to any person not a party to this case without my express permission, with the exception that you may provide discovery material to those persons employed or retained by you and who are necessary to assist you in preparation for trial or other proceedings.

Volume 9 includes digital photos, phone records, reports and videos. We were able to convert .PCD photos and have included them in Volume 9.

In response to some of your specific requests:

1. Photos from search of Siuslaw National Forest

These photos are included in Volume 9 in .pdf format. The originals may be prints, not digital photos. If that is not the case, we will provide digital copies in a future production.

Matthew A. Schindler
Page 2
September 9, 2020

2. **Handwritten Notes at Bates 015227 & 015229**
While I have not been able to confirm the origin of the notes, I believe they are Agent Torres' notes. You asked about missing pages. I'm not sure what you are referring to. I concur that the notes appear to relate to more than one interview. Agent Torres has retired, but we will reach out to him for clarification.
3. **Schedule of missing notes**
Agent interview notes are maintained in a physical file at the FBI. We will make the missing notes available for your review when we schedule a time to view physical evidence.
4. **October 31, 2006, Jonathan Paul 302**
Agent Suttles 302 of the interview is at Bates 011714.
5. **Eugene Detective Greg Harvey Reports**
Detective Harvey did not write reports. The interviews are documented in the reports that you have.
6. **Indices**
We have not been able to locate any additional indices. The index provided with Volume 9 includes more detailed descriptions of the materials.
7. **Plea agreement statements**
Jonathan Paul's interview is at Bates 011714. Rebecca Rubin's interview is included in Volume 9 at DIBEE_0003730
8. **Miscellaneous**
Photos from the search of Mr. Dibee's residence are at APHIS/ADC 3107. I believe there are additional photos that we are working to track down.

If you have any questions, please feel free to contact me.

Sincerely,

BILLY J. WILLIAMS
United States Attorney

/s/ Geoffrey A. Barrow

GEOFFREY A. BARROW
Assistant United States Attorney

Enclosure: 1 thumb drive

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September 29, 2020

Mr. Matthew A. Schindler
501 Fourth Street #324
Lake Oswego, Oregon 97034

Re: *United States v. Joseph Dibee*
Case No. 06-cr-60011-AA

Dear Counsel:

Discovery in this case has been uploaded to USAfx and is Bates labeled as follows:

Volume 10 – DIBEE_0003859 – DIBEE_0004017

An index of the discovery is included with the materials. Please contact me if you have any issues accessing the information.

This material is subject to the terms of the Protective Order issued in this case.

By accepting this discovery, you agree that you may review this discovery with your client, but you will not provide any defendant with copies of, or unsupervised access to, any unredacted discovery material unless you first redact from the discovery any other personal identifying information or financial information of persons other than your client, defined as follows:

Personal Information: personal identifying information of any individual, including without limitation any individual's full date of birth, social security number, address, telephone number, email address, driver's license number, professional license number, or family members' names.

Financial Information: financial information of any individual or business, including without limitation bank account numbers, credit or debit card numbers, account passwords, account names and contact information, account history, account balances, account statements, or taxpayer identification numbers.

By accepting this discovery, you agree that you will not provide any discovery material to any person not a party to this case without my express permission, with the exception that you

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Matthew A. Schindler
Page 2
September 29, 2020

may provide discovery material to those persons employed or retained by you and who are necessary to assist you in preparation for trial or other proceedings.

I recognize the government's discovery obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), its progeny, and Rule 16. I will provide timely disclosure if any such material comes to light. Consistent with *Giglio*, *Ruiz*, and 18 U.S.C. § 3500, I will provide information about government witnesses prior to trial and in compliance with the court's trial management order.

I request reciprocal discovery to the fullest extent provided by Rule 16 of the Federal Rules of Criminal Procedure, including results or reports of any physical or mental examinations, or scientific tests or experiments, and any expert witness summaries. I also request that defendant disclose prior statements of any witnesses defendant intends to call to testify at any hearing or trial. *See* Fed. R. Crim. P. 26.2; *United States v. Nobles*, 422 U.S. 255 (1975). I request that such material be provided on the same basis upon which the government will provide defendant with materials relating to government witnesses.

Additionally, pursuant to Federal Rules of Criminal Procedure 12.1, 12.2, and 12.3, I request that defendant provide the government with the appropriate written notice if defendant plans to use one of the defenses referenced in those rules. Please provide any notice within the time period required by the Rules or allowed by the Court for the filing of any pretrial motions.

I will forward any additional discovery as it becomes available. If you have any questions, please feel free to contact me.

Sincerely,

BILLY J. WILLIAMS
United States Attorney

/s/ Geoffrey A. Barrow

GEOFFREY A. BARROW
Assistant United States Attorney

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January 4, 2021

Matthew A. Schindler
501 Fourth Street #324
Lake Oswego, Oregon 97034

Re: *United States v. Joseph Dibee*
Case No. 06-cr-60011-AA

Dear Counsel:

Discovery in this case has been uploaded to USAfx and is Bates labeled as follows:

Volume 11 – DIBEE_0004018 – DIBEE_0004042

Volume 11 consists of forensic reports from the Northwest Regional Computer Forensics Laboratory. An index of the discovery is included with the materials. Please contact me if you have any issues accessing the information, and to confer regarding pretrial discovery as provided in Fed. R. Crim. P. 16.1.

This material is subject to the terms of the Protective Order issued in this case.

By accepting this discovery, you agree that you may review this discovery with your client, but you will not provide any defendant with copies of, or unsupervised access to, any unredacted discovery material unless you first redact from the discovery any other personal identifying information or financial information of persons other than your client, defined as follows:

Personal Information: personal identifying information of any individual, including without limitation any individual's full date of birth, social security number, address, telephone number, email address, driver's license number, professional license number, or family members' names.

Financial Information: financial information of any individual or business, including without limitation bank account numbers, credit or debit card numbers, account passwords, account names and contact information, account history, account balances, account statements, or taxpayer identification numbers.

Matthew A. Schindler
Page 2
January 4, 2021

By accepting this discovery, you agree that you will not provide any discovery material to any person not a party to this case without my express permission, with the exception that you may provide discovery material to those persons employed or retained by you and who are necessary to assist you in preparation for trial or other proceedings.

I recognize the government's discovery obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), its progeny, and Rule 16. I will provide timely disclosure if any such material comes to light. Consistent with *Giglio*, *Ruiz*, and 18 U.S.C. § 3500, I will provide information about government witnesses prior to trial and in compliance with the court's trial management order.

I request reciprocal discovery to the fullest extent provided by Rule 16 of the Federal Rules of Criminal Procedure, including results or reports of any physical or mental examinations, or scientific tests or experiments, and any expert witness summaries. I also request that defendant disclose prior statements of any witnesses defendant intends to call to testify at any hearing or trial. *See* Fed. R. Crim. P. 26.2; *United States v. Nobles*, 422 U.S. 255 (1975). I request that such material be provided on the same basis upon which the government will provide defendant with materials relating to government witnesses.

Additionally, pursuant to Federal Rules of Criminal Procedure 12.1, 12.2, and 12.3, I request that defendant provide the government with the appropriate written notice if defendant plans to use one of the defenses referenced in those rules. Please provide any notice within the time period required by the Rules or allowed by the Court for the filing of any pretrial motions.

I will forward any additional discovery as it becomes available. If you have any questions, please feel free to contact me.

Sincerely,

BILLY J. WILLIAMS
United States Attorney

/s/ *Geoffrey A. Barrow*

GEOFFREY A. BARROW
Assistant United States Attorney

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February 10, 2021

Via E-mail

Mr. Matthew A. Schindler
501 Fourth Street #324
Lake Oswego, Oregon 97034

Re: *United States v. Joseph Dibee*, No. 06-cr-60011-AA
Discovery Volume 12

Dear Mr. Schindler:

Volume 12 of discovery in this case has been uploaded to USAfx and is Bates labeled as follows:

Volume 12 – DIBEE_0004043 – DIBEE_0004245

I am also writing to follow up on our December 10, 2020 discovery conference and to formalize the answers we provided in that call. On that date, you e-mailed me two memos summarizing your discovery issues. The first was a file named "issues to discuss [sic] subsequent to review of volume 9.pdf" (herein Memo 1) and the second was a file named "response to AUSA Barrow's 7-27-2020 letter.pdf" (herein Memo 2). I will attempt to address the issues in order.

Memo 1

1. **Bates Numbers:** DIBEE_00001579, DIBEE_0002040-DIBEE_0002043, DIBEE_0002312, DIBEE_0002362, DIBEE_0002404, DIBEE_0002571, and DIBEE_0003669

Issue: These are .IFO files that you were unable to play. You requested a non-proprietary file format.

Response: As we discussed an .IFO file is a DVD-Video disc information file used by all DVD players. It contains information referenced by the DVD player which allows users to navigate and play the contents of the DVD. IFO files work in conjunction with .VOB and .VRO files, which contain the actual audio and video data. As we discussed, you can play the previously disclosed video files associated with these files.

2. **Bates Numbers:** DIBEE_0001626 and DIBEE_0001627

Issue: .NJB files open with an unknown application.

Matthew A. Schindler
Page 2
February 10, 2021

Response: An .NJB file is an index of photos taken with a Nikon digital camera; saved on the camera's SD memory card in the MISC folder; typically named "order.njb" by default. NJB files are used to organize photos on the memory card. They do not contain actual image data. As we discussed, you can view the photos with the files you have.

3. **Bates Number:** DIBEE_00016131 (I suspect you meant to refer to DIBEE_00016132)

Issue: The *.DSC files open with an unknown application.

Response: A .DSC file is used by Nikon digital cameras to allow the user to browse and edit images or movies. As we discussed, you are able to view the photos we previously disclosed.

4. **Bates Number:** DIBEE_0002037 and DIBEE_0002038

Issue: *.data and *.iPhoto files open with an unknown application.

Response: These files are associated with the images at DIBEE_0001938 to DIBEE_0002036. They were produced as an iPhoto library, a format used by Apple until 2015. As we discussed, you are able to view the photos associated with these files.

5. **Bates Number:** N/A

Issue: Missing toll records from AT&T Subpoena 1998R38328.

Response: The disc we have of these records is unreadable. I will try to get a readable copy, but I am not optimistic.

6. **Bates Number:** DIBEE_0002179 to DIBEE_2194

Issue: Images are described in the index as photos of a Toyota Corolla, but appear to be of a Toyota Camry.

Response: The index inaccurately describes the model of the vehicle.

7. **Bates Numbers:** DIBEE_0002272 to DIBEE_0002311

Issue: Photos produced in .tiff format.

Response: These photographs were produced in .tiff format because the originals are physical prints.

8. **Bates Number:** 022930

Issue: Half of the image is missing.

Response: As we discussed this is a copy of a facsimile. It appears the machine malfunctioned. The full image appears on the following page at Bates Number 022931

9. **Bates Number:** 022989

Issue: There is a header and a footer of a web page but not page content.

Response: As we discussed, there is no content for this page.

10. **Bates Number:** 022995

Issue: Page 1 of 1 is missing. Page 2 is a PIERS query.

Matthew A. Schindler
Page 3
February 10, 2021

Response: PIERS is the Passport Information Electronic Records system. The image is of Briana Waters' passport application. I am not aware of any missing information or any relevance to Mr. Dibee.

11. **Bates Number:** 023041

Issue: Please provide the contents of the ELF Website from 1A File dated June 20, 2001.

Response: This 1A file was produced in native format in Volume 9 at DIBEE_0002039

12. **Bates Number:** 023049-023052

Issue: Please provide the author of these notes.

Response: We are working to identify the author of these notes and will provide an update when available.

13. **Bates Number:** 023053-023054

Issue: Please provide the author of these notes.

Response: We are working to identify the author of these notes and will provide an update when available.

14. **Bates Number:** 023055-023063

Issue: Please provide the author of these notes.

Response: We are working to identify the author of these notes and will provide an update when available.

15. **Bates Number:** 023090-023099

Issue: Please provide the author of these notes.

Response: We are working to identify the author of these notes and will provide an update when available.

16. **Bates Number:** 023100-023102

Issue: Please provide the author of these notes and any report associated with the notes, i.e. interview of Meyerhoff on February 28, 2006.

Response: We are working to identify the author of these notes and any associated reports. We will provide an update when available.

17. **Bates Number:** 023230

Issue: Please provide the author of these notes and any report associated with the notes.

Response: We are working to identify the author of these notes and will provide an update when available.

18. **Bates Number:** 023231-023236

Issue: Please provide the author of these notes.

Response: We are working to identify the author of these notes and will provide an update when available.

Matthew A. Schindler
Page 4
February 10, 2021

Memo 2

1. **Issue:** Discovery Indices.
Response: We have produced all discovery indices that I am aware of.
2. **Issue:** Cannot Locate Cavel West 00004 – Cavel West 00005.
Response: Cavel West 00004 and Cavel West 00005 were produced as individual discs in Volume 2 on February 14, 2019. As the index produced on July 27, 2020 indicates, Cavel West 00004 is a DVD of video surveillance at a Redmond Quick stop. At one point, you had a copy of this disk. Your June 24, 2020 letter inquired about the associated *VOB files on Cavel West 00004. Cavel West 00005 is a DVD of a Redmond PD car arriving at the arson scene.
3. **Issue:** Confirm APHIS/ADC photos were converted to a non-proprietary format.
Response: These converted photos were produced in Volume 9 in a folder entitled “Converted .PCD photos previously produced.”
4. **Issue:** Redactions to APHIS/ADC Arson Interviews.
Response: At our meeting, you agreed to provide a list of reports that you would like unredacted.
5. **Issue:** Photos of Search warrant at Mr. Dibee’s residence.
Response: We are still searching for photos of the search of Mr. Dibee’s residence. We will produce the photos when we locate them.
6. **Issue:** Did not receive a copy of the schedule of items process by the RCFL.
Response: The report was produced in Volume 11 at DIBEE_0004038. Photographs from the search of Mr. Dibee’s office are included with this production.
7. **Issue:** Litchfield Fire Dispatch 911 call.
Response: As noted earlier, this file was produced on May 21, 2019. The index produced in Volume 8 identifies Litchfield 138 as 911 Fire Dispatch call 10/15/2001
8. **Issue:** Photocopies of fingerprints are illegible. Request better photocopies.
Response: I don’t know if a new photocopy of the prints would be more legible or useful to the defense. Because the defense has asked to view the physical evidence, I believe it would be more efficient to view and, if necessary, copy the prints at the time of the evidence viewing.
9. **Issue:** Photographs of Mr. Dibee’s residence, [REDACTED]
[REDACTED]
Response: Images from [REDACTED] (1A128) and [REDACTED]
[REDACTED], Kenmore, WA (1A133) are included in this volume. The photos of the

Matthew A. Schindler
Page 5
February 10, 2021

[REDACTED] residence were originally stored in *.DAT format. We are exploring ways to convert that data. We have not yet located the remaining photos, but will produce them if and when we located them.

10. **Issue:** Request an image of 1B36 (hard drive used by Mr. Dibee).

Response: A copy of the image was produced by the RCFL. The Process Report describing the items is at DIBEE_0004038

11. **Issue:** Cannot play video associated with Evidence Item 1B4.

Response: All of the files needed to play this video were produced in Volume 9. They are in a folder "Volume 9\Dibee NATIVE\DIBEE_0002\DIBEE_0002312\VIDEO_TS." If you click on the file "VIDEO_TS.IFO" it will open a player. If you click on the yellow button, it will play the video. This is the same system used for all of the DVD videos in discovery.

12.



13. **Issue:** Request electronic copy of 1B36.

Response: A copy of 1B36 was produced by the RCFL on December 1, 2020. The process Report at DIBEE_0004038 provides a description of the devices.

14. **Issue:** Electronic copy of grand jury records produced by Microsoft and previously disclosed in at Bates 12299-12595.

Response: According to the FBI file, these records were produced by Microsoft in paper form.

15. **Issue:** Reports regarding CART Seattle lab work.

Response: As set forth in the report at Bates 000485, the items were transferred to the RCFL. You now have images from the RCFL and a report documenting their work. If there is something more you would like, let me know.

16. **Issue:** Request electronic copy of previously produced toll records.

Response: The electronic toll records (1A100) are included with this production.

///

///

Matthew A. Schindler
Page 6
February 10, 2021

Please let me know if there are any remaining discovery issues. I would be happy to meet with you and Mr. Meyers at any time.

Sincerely,

BILLY J. WILLIAMS
United States Attorney

/s/ Geoffrey A. Barrow

GEOFFREY A. BARROW
Assistant United States Attorney

cc:
FBI Special Agent Timothy Suttles
FBI Special Agent Ted Halla

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Reply to Portland Office

March 8, 2021

Via E-mail

Mr. Matthew A. Schindler
501 Fourth Street #324
Lake Oswego, Oregon 97034

Re: *United States v. Joseph Dibee*, No. 06-cr-60011-AA
Agent Notes

Mr. Schindler:

I am writing to follow up on your request that we identify the authors of notes previously produced in discovery.

The notes produced at Bates Numbers 015227-015237 and at Bates Numbers 023053-023063 were taken by SA Tom Anzelmo from the March 26, 2006 Kolar interview. The notes produced at Bates Numbers 015259-015262 and 023049-023052 were taken by SA Sean Bradley from the same interview.

The notes produced at Bates Numbers 023090-023099 were taken by SA Tom Anzelmo from a February 28, 2006 interview of Meyehoff. Bates Numbers 023100-023102 were taken by SA Sean Bradley from the same interview. As set forth at Bates Number 023229, Bates Numbers 023230-023236 are notes Meyerhoff prepared prior to his interview.

Finally, I have been detailed to the U.S. Attorney's Office for the District of Columbia to work on cases related to the attack on the U.S. Capitol. AUSA Joseph Huynh will be taking over prosecution of this matter. I will continue to be involved to ensure a smooth transition of this case.

Matthew A. Schindler
Page 2
March 8, 2021

Please let us know if there are any remaining discovery issues.

Sincerely,

SCOTT E. ASPHAUG
Acting United States Attorney

/s/ Geoffrey A. Barrow

GEOFFREY A. BARROW
Assistant United States Attorney

cc:
AUSA Joseph Huynh
FBI Special Agent Timothy Suttles
FBI Special Agent Ted Halla